IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 733 of 1998

Between:

Associated Alcohols and Breweries ltd., having it's Registered

office Queens court, 8C, Queens Road, Bally Gunj,

Calcutta,west Bengal state, and having it's distillary at

Khodgram, Post Barwaha, district Khargone
Madhya Pradesh state, rep. by its authorised signatory Ravi

kumar S/o Ramesh Chandra. Occ: Business

... PETITIONER

AND

1 The Union of India, Rep. by its Secretary Ministry Chemicals &

Fertilizers (Department of Chemicals & Petro Chemiclas)
2 State of Andhra Pradesh Rep. by its Secretary Revenue Excise

Department, Secretariat buildings, Hyderabad
3 The Commissioner of Prohibition and Excise , Govt. of Andhra

Pradesh , Gaganvihar, M.J.Road, Hyerabad
4 Sub-Divisional Prohibition & Excise Officer,
Nizamabad Nizamabad Dist.
5 The Nizamabad Co-Operative Sugar Factory Ltd.,
Nizamabad, Sarangapur-503 186 Nizamabad District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, declaring: a) That G.O.Ms.No.982

Revenue (Ex.III),
dt. 6-10-1989 issued by the 2dn respondent is ultravires his powers under the AP. Excise Act in so far as it relates to Molasses in item 11 Under the aforesaid G.o. b) That the petitioner is entitled to purchase, lift any quantity of Molasses from anybody in the state of Andhra Pradesh and transport the same to it's distillery at Khodgram post Barwaha, Distirct Khargore, Madhyaprdesh state c) To grant a mandatory Injunction restraining the 2nd and 3rd Respondents, their men, agents, servants, subordinates in any department, throughout the State of Andhra Pradesh from interfering with the petitioner purchasing, lifting of any quantity of Molasses from anybody in the state of Andhra Pradesh and to transport the same to its distilarly at Khodgram, Post Barwaha, Distirct Khargore, Mandhya Pradesh.

Counsel for the Petitioner: MR.A.PANDURANGA RAO

Counsel for the Respondent No.1: MR.RAMAKRISHNA RAO SIDDANATHI (SC FOR CG)

Counsel for the Respondents 2 to 4: G.P. for Prohibition and Excise

The Court made the following:

ORDER:

It is represented by the learned counsel for the petitioner and admitted to by the learned Government Pleader for Prohibition and Excise that the subject matter in this writ petition is squarely covered by a Division Bench judgment of this Court dated 08-05-2001 in W.A.No.2209 of 1998 and batch, wherein it was held. –

> "In view of what is stated above, while we uphold the argument that the State is not debarred from making any legislation with regard to the molasses, we hold that since no such legislation has been made by the State of A.P., regarding the subject of molasses, the impugned orders of the respondents are unconstitutional, illegal and nonest.
>
> Accordingly, the Writ Appeals are dismissed and the Writ Petitions are allowed".

2. Recording the above submission and following the ratio in the aforementioned judgment, this Writ Petition is also allowed. Office is directed to annex a copy of the judgment in W.A.No.2209 of 1998 and batch, dated 08-05-2001, to this order. No costs.

_____

N.V. RAMANA, J

February 16, 2005

MRR/KSR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the sixteenth day of February Two thousand and five.

Copy to:

1 The Secretary Ministry of Chemicals & Fertilizers (Department of

Chemicals & Petro Chemicals) Union of India
2 Secretary, Revenue Excise Department Secretariat

Buildings, State of Andhra Pradesh, Hyderabad.
3 The Commissioner of Prohibition and Excise , Govt. of Andhra

Pradesh , Gaganvihar, M.J.Road, Hyerabad
4 Sub-Divisional Prohibition & Excise Officer,
Nizamabad Nizamabad Dist.
5 The Nizamabad Co-Operative Sugar Factory Ltd.,
Nizamabad, Sarangapur-503 186 Nizamabad District

6 Two C.C. s to the G.P. for Prohibition and Excise.

7 Two C.D. Copies.

{Enclosed along with a copy of judgment in W.A.No.2209 of 1998 and batch}